

Introduced by

1 A BILL for an Act

2 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

3 **SECTION 1. AMENDMENT.** Section 4-12.2-01 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **4-12.2-01. Definitions.**

6 In this chapter, unless the context or subject matter otherwise requires:

- 7 1. "Apiary" means ~~any place where~~ the site at which one or more colonies of bees are
8 kept.
9 2. "Beekeeper" means ~~any~~ a person who owns and maintains or leases and maintains
10 ~~one or more colonies of bees and maintains the bees in this state~~ by virtue of
11 ownership or a lease is responsible for the maintenance of bees located in or placed in
12 this state.

NOTE: This is an attempt to clarify current wording with respect to who must be licensed under this chapter.

- 13 3. "~~Bees~~" "Bee" means a honey-producing insect of the genus Apis, including all
14 stages of its life stages of such insects. ~~The term is not limited to the common-~~
15 ~~honeybee but includes Africanized bees.~~

NOTE: Genus Apis includes Africanized honeybees. Therefore, the second sentence has been removed.

NOTE: Subsections 2 and 3 will be reordered alphabetically in a subsequent draft.

- 16 4. "~~Certificate of health~~" means ~~a certificate issued upon the request of a beekeeper to~~
17 ~~verify normal standards of health set by the destination state.~~

NOTE: According to Agriculture Department personnel, the document issued is a certificate of inspection, not a certificate of health.

- 1 5. ~~"Certified breeder queen" means a queen bee whose progeny can be certified as-~~
2 ~~being European by use of the fast Africanized bee identification system, the universal~~
3 ~~system for the detection of Africanized honeybees, or any other identification-~~
4 ~~procedure approved by the animal and plant health inspection service.~~
5 6. ~~"Certified production queen" means a queen bee with larvae obtained from a certified-~~
6 ~~breeder queen. The term includes the queen emerging from a certified queen cell.~~
7 7. ~~"Certified queen cell" means a cell containing the immature stage from a certified-~~
8 ~~breeder queen.~~

NOTE: Because Section 4-12.2-18.1, which pertains to Africanized honeybees, is being reworked, the above three technical references are no longer necessary.

- 9 8. ~~"Colony" means the hive and its equipment including bees, comb and honey, and~~
10 ~~broøda familial group of adult bees consisting of drones, workers, and a queen.~~

NOTE: Because equipment, as defined in this section, includes veils, gloves, and various tools, it does not appear to be an appropriate inclusion in the definition of a colony.

- 11 9. ~~"Commissioner" means the agriculture commissioner, or the commissioner's-~~
12 ~~authorized representative.~~
13 10. ~~"Department" means the department of agriculture.~~
14 11. ~~"Equipment" means hives, supers, frames, veils, gloves, or any apparatus, tools,-~~
15 ~~machines, or other devices used in the handling and manipulation of bees, honey,-~~
16 ~~wax, and hives.~~
17 12. ~~"Normal standards of health" include the percentages of American foulbrood and~~
18 ~~varroasis incidents.~~

NOTE: This term is used only in the definition of a "certificate of health" and that term has been removed from the chapter.

- 19 13. ~~"Property owner" means the person, including a lessee, who has actual use and~~
20 ~~exclusive possession of the land.~~

NOTE: "Property owner" is a self-evident term, as is "lessee." Neither needs to be defined. Current law adulterates the term "property owner" so that it includes a lessee. The rewrite has addressed this.

- 21 5. "Hive" means a manmade structure that houses a colony.

22 **SECTION 2. AMENDMENT.** Section 4-12.2-02 of the North Dakota Century Code is
23 amended and reenacted as follows:

1 **~~4-12.2-02. Rulemaking authority.~~**

2 Pursuant to chapter 28-32, the commissioner may adopt rules and orders necessary to
3 implement this chapter.

NOTE: Chapter 28-32 provides authority for the Agriculture Commissioner to adopt rules.
 It is not necessary to reiterate that authority.

4 **SECTION 3. AMENDMENT.** Section 4-12.2-04 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **4-12.2-04. Beekeeper's license required.**

7 1. ~~No person may maintain bees~~Before a person may act as a beekeeper in this state
8 ~~without first obtaining a valid beekeeper's license. On or before the first day of March-~~
9 ~~in each year, each beekeeper shall apply to the commissioner, on a form to be~~
10 ~~furnished by the commissioner, for a beekeeper's license, the person must be licensed~~
11 ~~by the agriculture commissioner.~~

NOTE: This section currently requires that a beekeeper apply for a license on or before the
 first day of March. It does not address what is to happen if the application is made on or
 after March 2. The rewrite follows language used in the livestock dealer licensing chapter,
 i.e., before a person engages in a particular activity, the person must obtain a license. The
 date is irrelevant.

12 2. ~~Each~~To obtain a beekeeper's license, a person must complete an application and
13 ~~submit it to the agriculture commissioner. The application for license must include the:~~
14 a. ~~The applicant's name, address, and telephone number, the total;~~
15 b. ~~The maximum number of colonies to be maintained~~placed or located in this state,
16 ~~and the name and address of all persons, other than the applicant, who are~~
17 ~~responsible for maintaining the bees within the state. The application must be~~
18 ~~signed by the applicant and all persons responsible for maintaining the bees~~
19 ~~within this state. If the applicant does not own the bees, the application must~~
20 ~~disclose the nature of the relationship between the owner and the applicant.~~

NOTE: Current law requires that an individual include as part of the application, the "total"
 number of colonies to be maintained in this state. According to Agriculture Department
 personnel, the stated number is more of an estimate than an exact count. The rewrite,
 therefore, proposes a reference to the "maximum" number of colonies.

21 3. ~~The license required by this section is not transferable.~~

22 4. ~~Each application must include the; and~~

23 c. The name, address, and telephone number of a resident agent who is authorized
24 to accept service of process, notice, or demand arising from the beekeeper's

1 ~~activities under this chapter and for which the law requires or permits service~~
2 ~~upon the beekeeper.~~

3 3. A license issued under this section is not transferable.

4 4. A license issued under this section expires on December thirty-first.

NOTE: Current law does not reference a date on which a beekeeper's license expires. December 31 was inserted for consideration.

5 **SECTION 4. AMENDMENT.** Section 4-12.2-04.1 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **4-12.2-04.1. Application of minors for beekeeper's license - Liability for minor.**

8 ~~A person~~An individual who is less than eighteen years of age may be licensed as a
9 beekeeper, if that ~~person's~~individual's application for license is signed by either the ~~mother,~~
10 ~~father, or legal guardian of the applicant~~the individual's parent. Any civil or administrative liability
11 for a violation of the ~~beekeeping laws of this chapter~~ by a beekeeper who is less than eighteen
12 years of age ~~must be~~ is imputed to the ~~person who has~~parent who signed the application of that
13 beekeeper for a license, ~~which person.~~ The parent is jointly and severally liable with the
14 beekeeper.

15 **SECTION 5. AMENDMENT.** Section 4-12.2-05 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **4-12.2-05. License fees.**

18 ~~A license~~The fee for a beekeeper's license is five dollars ~~must accompany each license~~
19 ~~application made pursuant to section 4-12.2-04.~~

20 **SECTION 6. AMENDMENT.** Section 4-12.2-06 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **4-12.2-06. Assessment of fees.**

23 In addition to the license fee required by section 4-12.2-05, an applicant for a license must
24 submit an amount equal to fifteen cents per colony ~~for each colony maintained in this~~
25 ~~state~~multiplied by the maximum number of colonies listed in the application.

26 **SECTION 7. AMENDMENT.** Section 4-12.2-07 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **4-12.2-07. Registration of an apiary**Apiary location - Notification.

29 1. ~~Each~~Before placing or locating hives in this state, a beekeeper shall register all
30 ~~apiaries that are or will be maintained by the beekeeper within the state at the same~~

1 time an application for license is made. The application forms for registration must be
2 furnished by the department. The applicant shall provide the following information on
3 the form provided notify the agriculture commissioner of:

4 a. (1) The location of each apiary to the nearest section, quarter section,
5 township, and range, and, if within the corporate limits of a city, the number
6 or name of the lot, block, and addition in the city; or

7 (2) The location of each apiary using satellite navigation system coordinates;
8 and

9 b. The name of the ~~property owner on whose property~~ person who owns or leases
10 the property on which the apiary is located; ~~where the registrant is not the~~
11 ~~property owner, a copy of the written lease or other document from the property~~
12 ~~owner granting the applicant permission to maintain an apiary at that location.~~
13 ~~The written lease or other document is adequate for subsequent registrations if~~
14 ~~the parties to the agreement remain the same.~~

15 2. ~~New apiaries may be registered with the department at any time.~~ The notification
16 required by this section may be provided to the commissioner in written or in electronic
17 format.

NOTE: This section removes the requirement that the beekeeper provide the Agriculture Commissioner with a copy of the lease or other document granting permission for the placement of bees. The role of the commissioner is not to make a determination regarding the legal sufficiency of a contractual arrangement involving the beekeeper and the owner or lessee of land, but rather to maintain a record of apiary locations and of the persons responsible for the apiaries.

To assist in this, the section requires notification of the commissioner prior to the placement or location of hives and it allows for the notification to be in written or electronic format. It also suggests that GPS coordinates are a sufficient way to describe an apiary's location or placement.

18 **SECTION 8. AMENDMENT.** Section 4-12.2-08 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **~~4-12.2-08. Revocation of location by property owner.~~**

21 The ~~property owner on which an apiary is located may revoke the permission granted a~~
22 ~~beekeeper to place an apiary at that location by providing written notice to the department and~~
23 ~~the beekeeper. This section does not relieve the property owner from any liability to the~~
24 ~~beekeeper for the violation of rights granted by a lease or other legal agreement between the~~
25 ~~beekeeper and the property owner.~~

NOTE: If one works on the assumption that the state's interest is in ensuring the identification of apiaries, rather than ensuring the viability of a beekeeper's contract, this section becomes unnecessary.

1 **SECTION 9. AMENDMENT.** Section 4-12.2-08.1 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 ~~**4-12.2-08.1. Revocation of registration of an apiary.**~~

4 ~~The agriculture commissioner may cancel the registration of an apiary when the bees-~~
5 ~~located on the apiary site are causing a nuisance as defined in chapter 42-01.~~

NOTE: The concept of apiary registration has been replaced with a notification proposal. Ergo, the current language allowing for the cancellation of an apiary registration if the bees are deemed to be a nuisance is no longer appropriate.

The elimination of this section does not impact the effect of Chapter 42-01, which addresses public and private nuisances.

6 **SECTION 10. AMENDMENT.** Section 4-12.2-14 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 ~~**4-12.2-14. Identification of coloniesapiary.**~~

9 1. ~~Each beekeeper shall post a board or weatherproof placard bearing the beekeeper's-~~
10 ~~name, address, and telephone number at or near the main entrance of each apiary or~~
11 ~~on a beehive. The board or placard must measure at least eight inches [20.32-~~
12 ~~centimeters] high by eleven inches [27.94 centimeters] long. The letters and numbers~~
13 ~~must be at least one-half inch [1.27 centimeters] high and must be legible. The~~
14 ~~commissioner may approve, in writing, alternative sign or lettering dimensions. Each~~
15 ~~apiary must be identified with the beekeeper's three-digit license number. The number~~
16 ~~must be:~~

- 17 ~~a. Painted on at least one hive in the apiary;~~
18 ~~b. In a color that contrasts to that of the hive;~~
19 ~~c. Visible upon approaching the apiary's main entrance; and~~
20 ~~d. Clearly discernible at a distance of twenty feet [6.096 meters].~~

21 ~~2. Failure to post each apiary causes the apiary, all equipment, and bees to be deemed~~
22 ~~abandoned and~~~~At the request of a beekeeper, the agriculture commissioner may~~
23 ~~approve an alternate form of apiary identification.~~

24 ~~3. Any apiary that is not identified as required by this section is subject to seizure by the~~
25 ~~state bee inspector.~~

NOTE: This section suggests an alternative to the current method of apiary identification, while allowing the Agriculture Commissioner to consider other methods if proffered by a beekeeper.

1 **SECTION 11. AMENDMENT.** Section 4-12.2-15 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **4-12.2-15. State bee inspector - Appointment - Qualifications.**

- 4 1. The agriculture commissioner shall appoint ~~a person~~ an individual qualified by scientific
5 training or practical experience as the state bee inspector.
- 6 2. The commissioner shall provide to the state bee inspector ~~must be furnished with all~~
7 supplies, equipment, and support necessary to ~~carry out~~ implement this chapter.
- 8 3. The commissioner ~~shall~~, on the recommendation of the state bee inspector, may
9 appoint and dismiss deputy inspectors to ~~assist the inspector in performing the~~
10 ~~inspector's duties~~ provide assistance in implementing this chapter.

NOTE: The committee may wish to determine whether the Agriculture Commissioner should be "required" to appoint deputy inspectors at the recommendation of the State Bee Inspector.

11 **SECTION 12. AMENDMENT.** Section 4-12.2-16 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **4-12.2-16. BeeState bee inspector - Duties –Powers.**

14 ~~Upon request, the~~ The state bee inspector shall ~~provide inspection services to beekeepers,~~
15 ~~provide assistance in the location of bee colonies for pollination purposes, facilitate:~~

- 16 1. At the request of a beekeeper, inspect apiaries for the purpose of issuing a certificate
17 of inspection or other official document or validation;
- 18 2. Facilitate the interstate movement of bees, ~~promote improvements in apicultural~~
19 ~~practices, and work with institutions of higher education to promote the apiary industry.~~
20 ~~If the bee inspector or a deputy inspector receives a complaint from a beekeeper,~~
21 ~~aerial sprayer, or farmer, the inspector may enter private property during reasonable~~
22 ~~hours to make an external inspection for the purpose of identifying a colony; and~~
- 23 3. Work with public and private entities to advance research and education regarding
24 apicultural practices.

NOTE: Current law includes powers and duties within one section. It is suggested that for the sake of clarity and stylistic consistency, the two concepts be placed in separate sections.

With respect to subsection 1, current law directs that, upon request, the State Bee Inspector "shall provide inspection services to beekeepers". It was suggested by Agriculture

Department personnel that the **duty** to inspect be limited to the listed specific purposes, e.g., the issuance of a certificate of inspection or other official document or validation. The ensuing section provides an option for the State Bee Inspector to inspect apiaries for any other purpose. If time and personnel are limited, the State Bee Inspector may have to prioritize requests for inspection. For example, a request for a certificate of inspection verifying the health of colonies and necessary for interstate transport may take precedence over a hobbyist's request for advice and suggestions.

Subsection 3 has been reworded. Current law provides that the State Bee Inspector shall "work with institutions of higher education to promote the apiary industry." Institutions of higher education are not necessarily involved in the "promotion" of the apiary industry. In fact, private entities are at times the leaders in bee research and education. The proposed wording would direct the State Bee Inspector to participate with both public and private sector entities in order to advance research and education regarding apicultural practices. The committee may wish to examine whether this should be a power or a duty.

Current law also provides that if "the bee inspector or a deputy inspector receives a complaint from a beekeeper, aerial sprayer, or farmer, the inspector may enter private property during reasonable hours to make an external inspection for the purpose of identifying a colony." This concept has been addressed in the ensuing section.

1 **SECTION 13.** A new section to chapter 4-12.2 of the North Dakota Century Code is created
2 and enacted as follows:

3 **State bee inspector - Powers.** The state bee inspector may:

- 4 1. At the request of a beekeeper, inspect apiaries for any purpose other than the
5 issuance of a certificate of inspection or other official document or validation;
6 2. Charge a fee to cover the costs of inspecting an apiary under subsection 1;
7 3. Assist farmers in identifying beekeepers who provide pollination services; and
8 4. Enter upon private land during daylight hours for the purpose of enforcing this chapter.

NOTE: With respect to subsection 4, current law provides that if "the bee inspector or a deputy inspector receives a complaint from a beekeeper, aerial sprayer, or farmer, the inspector may enter private property during reasonable hours to make an external inspection for the purpose of identifying a colony." Taken literally, if the complaint comes from any other source, e.g., law enforcement, a rancher, a real estate agent, etc., there is no authority for the State Bee Inspector to enter upon private land. Second, the authority to enter upon private land currently exists only for the purpose of making an external inspection to identify a colony [sic], i.e., an apiary. If there is a need to remove hives, is there the authority to enter upon private land?

For the committee's consideration, the rewrite proposes language that would authorize the State Bee Inspector to enter upon private land during daylight hours for the purpose of enforcing this chapter. The committee may wish to determine whether the phrase "during daylight hours" needs to be included. The reference to daylight hours is preferred because it is less subjective than the currently used phrase "during reasonable hours".

9 **SECTION 14. AMENDMENT.** Section 4-12.2-18 of the North Dakota Century Code is
10 amended and reenacted as follows:

1 **~~4-12.2-18. Certificate of health – Issuance.~~**

2 ~~If a certificate of health is required for the interstate movement of bees and equipment, the~~
3 ~~state bee inspector shall make an official inspection for that purpose and issue a certificate of~~
4 ~~health. If for any reason an additional inspection is required prior to the issuance of a certificate~~
5 ~~of health, the beekeeper shall submit to the commissioner a fee set by the commissioner to~~
6 ~~cover the costs of the additional inspection.~~

NOTE: As proposed, Section 4-12.2-16 would provide that the State Bee Inspector, at the request of a beekeeper, shall inspect apiaries for the purpose of issuing a certificate of inspection or other official document or validation. Agriculture Department personnel have indicated that such inspections are conducted over the course of a season and, therefore, the current reference to charging a fee for "additional" inspections is inappropriate. As proposed, Section 13 would provide that the State Bee Inspector may charge a fee to cover the costs of inspecting an apiary for purposes other than the issuance of a certificate, an official document, or other validation.

 Based on the proposed changes, it is recommended that this section be deleted.

7 **SECTION 15. AMENDMENT.** Section 4-12.2-18.1 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **~~4-12.2-18.1. Africanized honeybees – Regulated areas~~Quarantine - Declaration -**
10 **Hearing - Penalty.**

11 ~~If a swarm of bees is captured, positively identified as being Africanized honeybees, and~~
12 ~~determined to be present as a result of natural migration, rather than human intervention, the~~
13 ~~commissioner may designate a limited geographic area as an Africanized honeybee area. The~~
14 ~~commissioner shall allow beekeepers to transport managed colonies out of the Africanized~~
15 ~~honeybee area for a period of three months from the date of designation. Thereafter, the~~
16 ~~commissioner shall allow managed colonies to be transported out of the designated area only if~~
17 ~~the queens were marked or clipped prior to the date of designation, or if the colonies have been~~
18 ~~requeened with certified breeder queens, certified production queens, or certified queen cells. A~~
19 ~~beekeeper may not use a swarm of honeybees positively identified as being Africanized in a~~
20 ~~beekeeping operation.~~

21 1. a. If the agriculture commissioner determines that a quarantine of this state or any
22 portion thereof may be necessary to eradicate or control the spread of disease,
23 insects, or pests, within the apicultural industry, the commissioner shall schedule
24 a public hearing on the matter and provide notice of the hearing by publishing its
25 time, place, and date in the official newspaper of each county having land within
26 the proposed quarantine area.

- 1 b. If after the hearing the commissioner orders the imposition of a quarantine, the
2 order must include the date by which or the circumstances under which the
3 commissioner shall lift the quarantine order.
- 4 2. If the commissioner determines that the imposition of an emergency quarantine is
5 necessary to eradicate or control the spread of disease, insects, or pests, within the
6 apicultural industry, the commissioner may impose such an order for a period not
7 exceeding fourteen days. Within the fourteen-day period, the commissioner shall hold
8 a public hearing as provided for in subsection 1 and determine whether a quarantine
9 order under subsection 1 should be imposed.
- 10 3. Following the establishment of a quarantine, the movement of any colonies, hives, or
11 other beekeeping equipment, described in the quarantine order, is subject to the order.

NOTE: Agriculture Department personnel indicated that the current language is unworkable. They suggested that the authority to impose a quarantine would be more practicable. Language providing for a quarantine is therefore included for the committee's review. Any person violating the quarantine order is subject to the general penalty provided for in this chapter, i.e., a Class A misdemeanor.

12 **SECTION 16. AMENDMENT.** Section 4-12.2-18.2 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 ~~**4-12.2-18.2. Africanized honeybees.**~~

15 ~~The department in cooperation with the North Dakota beekeeper's association shall develop~~
16 ~~a voluntary certification plan consistent with the model state Africanized honeybee management~~
17 ~~plan developed at the United States department of agriculture and national association of state~~
18 ~~departments of agriculture meeting in St. Louis, Missouri, in October 1991.~~

NOTE: Because this section calls for a voluntary certification plan that is consistent with a model plan developed at a meeting 23 years ago, it is recommended that the section be deleted.

19 **SECTION 17. AMENDMENT.** Section 4-12.2-20 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 ~~**4-12.2-20. Shipment into state -- Permit -- Fees.**~~

22 ~~Before any person transports any bees or used equipment into this state, that person must~~
23 ~~obtain an entrance permit from the bee inspector. Entrance permits for applicants whose~~
24 ~~applications are received after March first are effective sixty days after the date of the~~
25 ~~application for a license. Immediately upon the arrival in this state of any bees or equipment, the~~

1 beekeeper shall comply with this chapter. Upon showing of good cause, the commissioner may
2 on a case-by-case basis waive the sixty-day waiting period.

NOTE: Agriculture Department personnel have indicated that this section is not enforced.

3 **SECTION 18. AMENDMENT.** Section 4-12.2-21 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **4-12.2-21. ~~Abandoned~~Unidentified apiary and ~~abandoned equipment~~- Notice -**
6 **~~Seizure, destruction, or sale.~~**

7 ~~Any apiary, equipment, or bees not regularly maintained and attended in accordance with~~
8 ~~this chapter or any rules adopted pursuant to this chapter or which comprises a hazard or threat~~
9 ~~to the beekeeping industry may be considered abandoned and will be subject to seizure by the~~
10 ~~state bee inspector. Any bees not properly hived or hives or equipment not properly stored may~~
11 ~~be considered abandoned bees or equipment. Any bees and equipment which have been~~
12 ~~seized may, when necessary, be immediately burned or otherwise destroyed and any bees or~~
13 ~~equipment not destroyed may be sold at public auction. The proceeds, after the cost of sale and~~
14 ~~all costs resulting from the action are deducted, must be returned to the former owner or the~~
15 ~~former owner's estate; provided, however, that before causing the bees or equipment to be sold,~~
16 ~~the bee inspector shall give the beekeeper or agent a written notice at least five days prior to~~
17 ~~the date on which the property will be sold. This notice is to be given by registered mail or by~~
18 ~~personal service upon the owner, or person in charge, of such property.~~

- 19 1. If the state bee inspector determines that an apiary is not identified, as required by
20 section 4-12.2-14, and if after making a reasonable effort the state bee inspector fails
21 to identify the beekeeper responsible for the apiary, the state bee inspector shall
22 publish in the official newspaper of the county in which the apiary is located, a notice
23 indicating that at a time certain, all of the colonies, the hives, including their content,
24 and all beekeeping equipment present at the apiary, will be seized and sold at auction
25 or destroyed, unless the beekeeper or other responsible person appears to claim the
26 property and pay for any costs incurred by the state bee inspector under this section.
27 2. A seizure under this section may not occur until at least the sixth day after the date of
28 the published notice.

NOTE: After discussions with Agriculture Department personnel, it appears that this section really needs to address what must happen in the event an unidentifiable apiary is found.

1 **SECTION 19. AMENDMENT.** Section 4-12.2-22 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **4-12.2-22. Penalties - Criminal - Civil - License revocation or nonrenewal.**

4 1. A person ~~who violates~~violating this chapter or any rules adopted ~~under~~to implement
5 this chapter is guilty of a class A misdemeanor.

NOTE: The Apiary Division currently has minimal rules and has not issued new rules or amended any rules since 1992. The Class A misdemeanor referenced herein would be the penalty applicable to any rules enacted in the future. The committee may wish to discuss whether this is an intended result.

6 2. In addition to criminal sanctions ~~which~~that may be imposed pursuant to subsection 1,
7 a person found guilty of violating this chapter or rules adopted ~~under~~to implement this
8 chapter is subject to a civil penalty not to exceed five thousand dollars ~~for each~~per
9 violation. The civil penalty may be adjudicated by ~~the courts~~a court or by the
10 agriculture commissioner through an administrative hearing ~~pursuant to chapter 28-32.~~

11 3. The department may, in accordance with the laws of this state, commissioner may
12 maintain an ~~appropriate~~a civil action in the name of the state against any person
13 violating this chapter or rules adopted ~~under~~to implement this chapter.

14 4. The commissioner may refuse to grant a license to any person found guilty of
15 repeated violations of this chapter or rules adopted ~~under~~to implement this chapter, or
16 to any person who has failed to pay an adjudicated civil penalty for ~~violation of~~violating
17 this chapter, within thirty days after a final determination that the civil penalty is owed.

NOTE: Subsection 4 would appear to be better placed in a separate section entitled: "**License - Grounds for denial.**" One ground for denial could be that the individual submitted false or misleading information in connection with an application or other notification required under this chapter. In such a case, the applicant is generally permitted to request a hearing within 30 days of the denial.

18 5. Any person who knowingly ~~makes a false statement, representation, or certification~~
19 ~~in~~provides false or misleading information in connection with any application, ~~record,~~
20 ~~report, or other document may be~~ or notification required by this chapter is subject to
21 the penalties provided in this chapter.

22 **SECTION 20. AMENDMENT.** Section 4-12.2-23 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **4-12.2-23. Confiscation and disposal.**

25 Any ~~Except as provided for in section 4-12.2-21, the state bee inspector or a law~~
26 enforcement officer may confiscate bees, hives, or beekeeping equipment found to be being

1 transported or maintained in violation of the beekeeping laws of this chapter may be confiscated
2 by the state bee inspector or the sheriff of any county where the offense may have occurred
3 and. Any bees, hives, or beekeeping equipment confiscated under this section must be
4 disposed of pursuant to a court order or an administrative order issued by the agriculture
5 commissioner after a hearing held under chapter 28-32, unless the bees or equipment are
6 disposed of under section 4-12.2-21.

NOTE: The rewrite removes language referencing the issuance of an administrative order by the Agriculture Commissioner "after a hearing held under chapter 28-32". Because Chapter 28-32 already requires a hearing, it is not necessary to duplicate the requirement.

The rewrite also references confiscation by any law enforcement officer and not just a county sheriff.

7 **SECTION 21. AMENDMENT.** Section 4-12.2-24 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **4-12.2-24. Service of process on beekeeper.**

10 ~~Whenever~~ if neither the beekeeper or nor the beekeeper's registered agent cannot be found
11 ~~with reasonable diligence, the commissioner is an agent of the beekeeper and service of any~~
12 ~~process, notice, or demand may be made upon the commissioner. If any process, notice, or~~
13 ~~demand is served on the commissioner, service must be deemed~~ can be located for the purpose
14 of serving process, in connection with a violation of this chapter or rules adopted to implement
15 this chapter, the agriculture commissioner becomes the statutory agent for service of process
16 and any service upon the commissioner is deemed to be complete. This section does not limit
17 ~~or affect the right to serve any process, notice, or demand required or permitted by law to be~~
18 ~~served upon a beekeeper in any other manner permitted by law.~~

19 **SECTION 22. AMENDMENT.** Section 4-12.2-25 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **4-12.2-25. Beekeeping considered agricultural enterprise.**

22 Beekeeping is an agricultural enterprise for all purposes under the laws of this state.

NOTE: The only statutory reference to an "agricultural enterprise" is found in Chapter 4-36, which is known as the Agricultural Development Act and pertains to agricultural loan financing. Section 4-36-03 provides that:

"Agriculture or agricultural enterprise" includes the real and personal property constituting farms, ranches, and other agricultural commodity producers; agriculturally related businesses; agriculturally related sewage, liquid and solid waste collection, disposal, treatment, and drainage services, and facilities; agriculturally related antipollution and air, water, ground, and subsurface pollution abatement and control facilities and services; agriculturally related permanent soil and water conservation

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projects, including the installation of tiling for drainage, planting of perennial grasses, legumes, shrubs, or trees, the establishment of grassed waterways, and the construction of terraces, or any other permanent soil and water conservation practice approved by the local soil conservation or water resource district; and conservation farm equipment or any type of no-till or minimum-till machinery and equipment.

Beekeeping laws have been in existence since the 1923 legislative session. This section was added in 1983, through an interim bill resulting from a study of the beekeeping laws. There is no mention of its purpose in the interim records or in the 1983 legislative history. The committee may wish to discuss the implications of this section and whether or not it should be maintained.